

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference W0290WO	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/EP2004/013215	International filing date (day/month/year) 22.11.2004	Priority date (day/month/year) 17.12.2003	
International Patent Classification (IPC) or national classification and IPC B65D8/04, B65D25/42			
Applicant CROWN PACKAGING TECHNOLOGY INC et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 07.04.2005		Date of completion of this report 14.11.2005	
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Vesterholm, M Telephone No. +49 89 2399- 	

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/013215

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-5 as originally filed

Claims, Numbers

1-3 as originally filed

Drawings, Sheets

1/2-2/2 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing *(specify)*:
 - ☐ any table(s) related to sequence listing *(specify)*:
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing *(specify)*:
 - ☐ any table(s) related to sequence listing *(specify)*:

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/013215

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-3
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-3
Industrial applicability (IA)	Yes: Claims	1-3
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item V.

1. The following documents are referred to in this communication:

D1: US-A-4 883 192 (KRUGMAN ROBERT) 28 November 1989

D2: DE-A-30 05 378 (THE NIPPON ALUMINIUM MANUFACTURING CO., LTD)
14 August 1980

2. INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject matter of claim 1 does not involve an inventive step in the sense of Article 33(3)PCT.

- 2.1.1 Document D1, which is considered to represent the most relevant state of the art to the subject matter of claim 1, discloses (the references in parentheses applying to this document):

A reclosable container comprising:

a metal can body (2) having a base and a side wall, a metal neck component (1), the neck component comprising a generally frustoconical shoulder portion (1b) and a cylindrical portion (4) (see Fig. 1 and page 8, line 26 - page 9, line 15).

- 2.1.2 The subject-matter of independent claim 1 differs from the disclosure of D1 by:

- a) a sleeve which fits over the metal neck component and covers the seam between the neck component and the can body,
- b) the sleeve is of plastics material, extends over the cylindrical portion of the neck component and is threaded to allow reclosability of the container.

- 2.1.3 The problem to be solved by the present invention may therefore be regarded as to provide a reclosable container.

- 2.1.4 In view of D2 the solution proposed in claim 1 of the present application

cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

D2 discloses a sleeve (10) which can cover a seam (14) between a neck component and a body (16), wherein the sleeve is of plastics material, can extend over a neck component and is threaded to allow reclosability of the container (see Fig. 1 and 3, and col. 1, line 64 - col. 2, line 40).

- 2.1.5 Therefore the features disclosed in D1 and D2 would be combined by the skilled person, without exercise of any inventive skills in order to solve the problem posed. The proposed solution in independent claim 1 thus cannot be considered inventive (Article 33(3) PCT).

3. DEPENDENT CLAIMS 2, 3

Dependent claims 2, 3 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

Re Item VII.

4. Although claim 1 is drafted in the two-part form some of its features are incorrectly placed in the preamble, as they are not disclosed in document D1 (Rule 6.3(b) PCT).
5. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.